

## § 10.7

## 17 CFR Ch. I (4–1–12 Edition)

the Commission or the Presiding Officer before whom a matter is then pending, on their own motion or the motion of a party, at any time may extend or shorten the time limit prescribed by the rules for filing any document. In any instance in which a time limit is not prescribed for an action to be taken in a proceeding, the Commission or the Presiding Officer may set a time limit for that action.

### § 10.7 Date of entry of orders.

In computing any period of time involving the date of the entry of an order the date of entry shall be the date the order is served by the Proceedings Clerk.

[41 FR 2511, Jan. 16, 1976, as amended at 60 FR 54801, Oct. 26, 1995]

### § 10.8 Presiding officers.

Unless otherwise determined by the Commission, all proceedings within the scope of this part shall be assigned to an Administrative Law Judge for hearing. If the Commission determines that a proceeding within the scope of this subpart shall be conducted before a Presiding Officer who is not an Administrative Law Judge, all provisions of this part that refer to and grant authority to or impose obligations upon an Administrative Law Judge shall be read as referring to and granting authority to and imposing obligations upon the designated Presiding Officer.

(a) *Functions and responsibilities of Administrative Law Judge.* The Administrative Law Judge shall be responsible for the fair and orderly conduct of the proceeding and shall have the authority to:

- (1) Administer oaths and affirmations;
- (2) Issue subpoenas;
- (3) Rule on offers of proof;
- (4) Receive relevant evidence;
- (5) Examine witnesses;
- (6) Regulate the course of the hearing;
- (7) Hold prehearing conferences;
- (8) Consider and rule upon all motions;
- (9) Make decisions in accordance with § 10.84 of these rules;
- (10) Certify interlocutory matters to the Commission for its determination

in accordance with § 10.101 of these rules;

(11) Take such action as is just or appropriate, if a party or agent of a party fails to comply with an order issued by the Administrative Law Judge;

(12) Take any other action required to give effect to these Rules of Practice, including but not limited to requesting the parties to file briefs and statements of position with respect to any issue in the proceeding.

(b) *Disqualification of Administrative Law Judge—(1) At his own request.* An Administrative Law Judge may withdraw from any proceeding when he considers himself to be disqualified. In such event he immediately shall notify the Commission and each of the parties of his withdrawal and of his reason for such action.

(2) *Upon the request of a party.* Any party or person who has been granted leave to be heard pursuant to these rules may request an Administrative Law Judge to disqualify himself on the grounds of personal bias, conflict or similar bases. Interlocutory review of an adverse ruling by the Administrative Law Judge may be sought without certification of the matter by the Administrative Law Judge, in accordance with the procedures set forth in § 10.101.

### § 10.9 Separation of functions.

(a) An Administrative Law Judge will not be responsible to or subject to the supervision or direction of any officer, employee, or agent of the Commission engaged in the performance of investigative or prosecutorial functions for the Commission.

(b) No officer, employee or agent of the Commission who is engaged in the performance of investigative or prosecuting functions in connection with any proceeding shall, in that proceeding or any factually related proceeding, participate or advise in the decision of the Administrative Law Judge or the Commission except as witness or counsel in the proceeding, without the express written consent of the respondents in the proceeding. This provision shall not apply to the members of the Commission.

[41 FR 2511, Jan. 16, 1976, as amended at 63 FR 55791, Oct. 19, 1998]